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Before the
Federal Communications Commission
Washington, DC 20554

OCT 30 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Preemption of State and Local Zoning and
Land Use Restrictions on the Siting,
Placement and Construction of Broadcast
Station Transmission Facilities

MM Docket No. 97-182

To: The Commission

COMMENTS OF NORMAN BROADCASTING COMPANY, INC.

Norman Broadcasting Company, Inc., licensee of AM station WGNU, Granite City, Illinois ("WGNU"), by its attorney, respectfully submits these comments in response to the Commission's Notice of Proposed Rule Making ("NPRM"), FCC 97-296, released August 19, 1997. As shown herein, the Commission should explicitly preempt local action which threatens existing broadcast station operations, absent overriding health and safety concerns.

WGNU operates on a frequency of 920 kHz, with powers of 500 Watts during the day and 450 Watts at night. It utilizes four in-line towers to achieve the required protection of other nearby stations. In 1994, WGNU combined its daytime and nighttime sites to a common location, pursuant to Commission grant of application File No. BP-920410AC. It has been transmitting from its present location since that time, a location adjacent to the transmitter site of Station KXEN(AM), Festus-St. Louis, MO.

WGNU, which has been operating continuously since the early 1960s, is the only AM station licensed to Granite City, 1990

population 32,862, according to the US Census. There is one FM station licensed to Granite City.

Until recently, WGNU's ability to continue to operate from its licensed transmitter site has not been threatened. There have been no complaints of blanketing interference, or other difficulties. The area is essentially rural, with the transmitter site surrounded by thousands of acres of farmland in active cultivation. Granite City, the nearest community of any size, is more than five miles from the transmitter site.

However, the state of Illinois recently enacted legislation creating an enterprise zone in an area which includes WGNU's transmitter site. As a result, WGNU's transmitter site may be condemned under the "quick-take" provision of Illinois' Eminent Domain Act, Ill. Rev. Stat. 1987, ch. 110, para. 7-101, et seq. this allows a developer, with the blessing of the appropriate condemning authority, to acquire title to the real property via state condemnation, and dispossess the former owner within ninety (90) days.

Real/Vest, Inc., a land developer, has notified WGNU that it desires WGNU's transmitter site for its own purposes, and that, if it is unable to get WGNU to voluntarily sell its site, it plans to request the appropriate governmental authority to condemn WGNU's site so it can use the land for its own private purposes. Hence, WGNU's continued use of its transmitter site is in jeopardy.

WGNU retained the firm of E. Harold Munn, Jr. & Associates, Inc., recognized consulting engineers to look into the possibility

of moving to a new transmitter site. They indicate that it would be difficult, if not impossible for WGNU to move to a new transmitter site. There are significant restrictions on WGNU's transmitter site. It must be at least about 1200 feet east-west by 800 feet north-south to accommodate the necessary four towers and ground system. Also any site would have to be well-removed from power lines and similar structures, as the cost of detuning them could be prohibitive. The new site must, of course, be close to Granite City, so as to provide the necessary city-grade, interference-free service required by the Commission's rules.

WGNU has been unable to identify suitable potential sites. WGNU's position on the dial was "squeezed in" originally through the use of a large amount of field strength measurements. These measurements would not be valid from a new site, requiring another set of measurements, and installation of a "test transmitter" with a temporary tower and ground system as well. There is no guarantee of what these measurements might show, or what limitations on power and pattern characteristics would obtain. It appears likely that any move to a new transmitter site would result in a significant reduction in WGNU's coverage. WGNU is also concerned about the large expense, many tens of thousands of dollars, it would incur in preparing an application for a new site and in constructing a multi-tower array at that site. Such cost, if it is not prohibitive, would seriously impact WGNU's ability to meet its public interest obligations as a Commission licensee. This is a clear example of a pressing situation, as requested by the Commission in

paragraphs 16 and 19 of its NPRM.

As the Commission is well aware, it is getting harder to locate broadcast station transmitter sites. There are FAA restrictions as well as often local zoning and other factors to be considered. Congress has recognized that there is an overriding public interest in permitting communications services to locate transmitting facilities in suitable locations. In P.L. No. 104-104, 110 Stat. 56 (1996), Section 332(c)(7)(B)(i)(II) was added to 47 U.S.C. This statute recognizes the greater public benefit stemming from personal wireless service prevents State and local authorities from regulating the "placement, construction, and modification" of such communications facilities as to prohibit them. Broadcasters, who are licensed to serve the public interest, deserve the same consideration. Accordingly, WGNU fully supports the proposal of the National Association of Broadcasters and the Association for Maximum Service Television which would extend the Commission's preemption of local restrictions on wireless communications to "all State and local land use, building, and similar laws, rules or regulation that impair the ability of licensed broadcasters to place, construct, or modify their transmission facilities."

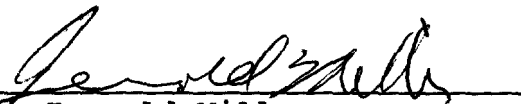
The Commission is urged to adopt a broad preemption rule which recognizes the public interest service of broadcasting. It should apply its authority to all new, modified, or relocated transmitter sites of all radio and television stations, who have received Commission authorizations. The language in Paragraph (b)(2) of the petitioners' proposal is appropriate and should be adopted. Only

in this way can WGNU be assured that it will be able to continue to serve its listeners who have come to rely on the station for over 35 years.

In conclusion, WGNU urges the Commission to adopt the proposal contained in Appendix B of its NPRM.

Respectfully Submitted,

NORMAN BROADCASTING COMPANY, INC.

By 
Jerrold Miller
Its Attorney

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Miller & Miller, P.C.
P.O. Box 33003
Washington, DC 20033